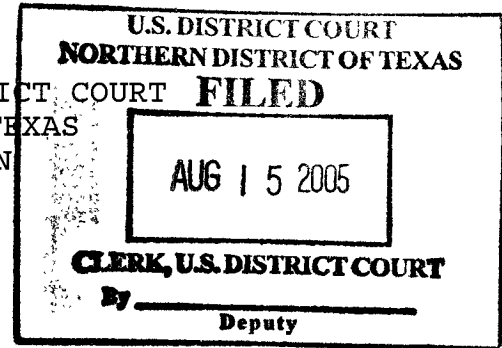


IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



MACKIEL BILLINGSLEY,

Petitioner,

VS.

DOUGLAS DRETKE, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS
DIVISION,

Respondent .

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NO. 4:05-CV-457-A

O R D E R

Came on for consideration the above-captioned action wherein Mackiel Billingsley is petitioner and Douglas Dretke, Director, Texas Department of Criminal Justice, Correctional Institutions Division, is respondent. This is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On July 21, 2005, the United States Magistrate Judge issued his proposed findings, conclusions, and recommendation, and ordered that petitioner file objections, if any, thereto by August 11, 2005. On August 10, 2005, petitioner filed his objections along with a motion for stay of habeas corpus proceedings. In accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the court makes a de novo determination of those portions of the proposed findings or recommendations to which specific objection is made. United States v. Raddatz, 447 U.S. 667 (1980). The court is not addressing any nonspecific objections or any

frivolous or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

Petitioner admits that this is a successive petition under 28 U.S.C. § 2254, although he argues that he has good grounds for pursuing it. Petitioner requests that the action be stayed so that he can seek leave of the United States Court of Appeals for the Fifth Circuit to pursue a successive petition. The court does not make a habit of granting such requests. Rather, the action will be dismissed without prejudice so that petitioner may pursue his motion in the Fifth Circuit.

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the petition in this action be, and is hereby, dismissed without prejudice.

SIGNED August 15, 2005.



JOHN MCBRYDE
United States District Judge